

MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS COMMITTEE

December 16, 2008 at 1:00 p.m.

Room C445, State Capitol, State Capitol Complex

Members Present: Sen. Lyle W. Hillyard, Co-Chair
Rep. Ron Bigelow, Co-Chair
Sen. Peter C. Knudson, Vice Chair
Rep. Rebecca D. Lockhart, Vice Chair
Sen. Curtis S. Bramble
Rep. David Clark
Rep. Greg J. Curtis, Speaker
Sen. Gene Davis
Sen. Mike Dmitrich
Rep. Dan R. Eastman
Sen. Brent H. Goodfellow
Sen. Patricia W. Jones
Sen. Sheldon L. Killpack
Rep. Brad King
Rep. David Litvack
Rep. Carol Spackman Moss
Rep. Phil Riesen
Sen. John L. Valentine, President

Members Excused: Rep. Brad L. Dee
Rep. Gordon E. Snow

Staff Present: Jonathan Ball, Director, LFA
Steven Allred, Deputy Director, LFA
Greta Rodebush, Secretary

Speakers Present: Tienielle Young, Governor's Office of Planning and Budget
Kim Hale, Department of Community and Culture
Craig Silotti, Department of Environmental Quality
John Nixon, Governor's Office of Planning and Budget
Eric Weeks, Legislative Research and General Counsel

Note: A list of visitors, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov

1. Call to Order - Approval of Minutes

Committee Co-Chair Bigelow called the meeting to order at 1:25 p.m. He indicated that no motions would be taken at this time. While there was a quorum in the Senate, a quorum was lacking in the House.

2. Federal Funds/Non-Federal Grants Report

Federal Funds Report

Tienielle Young, Governor's Office of Planning and Budget, presented the Federal Funds Report through November 30, 2008. There were no new grants and one reapplication of an existing grant requiring

legislative action. Ms. Young noted that no new grants and two reapplications of existing grants had been approved by the Governor's Office.

Pres. Valentine asked why the U.S. Department of Agriculture is involved with the Juvenile Justice and Delinquency Prevention Grant Program and the Stop Violence Against Women Grant Program rather than the U.S. Department of Justice. Ms. Young stated that this could be a typographical error and she would check into this.

Pres. Valentine asked for more information on the two National Endowment for the Arts Partnership Agreement Grant Programs. Kim Hale, Finance Director, Utah Department of Community and Culture, explained that these grant monies are awarded annually to artists. He was not aware of any NEA restrictions that designated how the monies were to be used but he would look into this further.

Pres. Valentine inquired about the status of three Department of Environmental Quality Drinking Water State Revolving Fund Grant Programs that draw down \$24 million in federal funding. Each program has an annual state match of \$2.4 million. Craig Silotti, Finance Director, DEQ, stated that while each of the grants is awarded annually, one per year, monies are disbursed over a three to four-year period. It is possible to have three or four loan programs open at any given time.

Sen. Bramble asked about the Department of Environmental Quality's Lust Trust Cooperative Agreement. Jonathan Ball, LFA, stated that this grant refers to leaking underground storage tanks.

Co-Chair Bigelow recognized Co-Chair Hillyard for a motion.

MOTION: Co-Chair Hillyard moved to approve the one reapplication of an existing grant requiring legislative action through November 30, 2008 listed in the Federal Funds Report. The motion passed unanimously.

Non-Federal Grants Report

Ms. Young presented the Non-Federal Grants Report through November 30, 2008. There was one new grant and no reapplications of existing grants requiring legislative action. In addition, there were five new grants and no reapplications of existing grants approved by the Governor's Office.

MOTION: Co-Chair Hillyard moved to approve one new grant requiring legislative action through November 30, 2008 listed in the Non Federal Grants Report. The motion passed unanimously.

MOTION: Co-Chair Hillyard moved to approve the minutes from November 18, 2008. The motion passed unanimously.

3. Adopt Revenue Estimates

Jonathan Ball, LFA, called the committee's attention to the red sheet under Tab 3, "Revenue Estimates - December 2008." He explained that the new revised General Fund/Education Fund FY 2009 revenue estimates are \$350 million below FY 2009 September estimates, and an additional \$100 million for a total of \$450 million below FY 2009 September estimates for FY 2010.

MOTION: Co-Chair Hillyard moved to adopt the revenue estimates for FY 2009 revised and FY 2010 as indicated on page 1 of the red sheet titled "Revenue Estimates - December 2008" and dated today, December 16, 2008.

Speaker Curtis asked if the revenue estimates represent consensus numbers. Co-Chair Bigelow clarified that the revenue estimates are a consensus with the Governor's Office.

Speaker Curtis further inquired about revenue estimate ranges. Mr. Ball stated that this was the absolute bottom of the range given current economic indicators provided by the Revenue Assumptions Committee.

Pres. Valentine asked for a clarification on the percentage difference in the September FY 2009 revenue estimates and those presented for December FY 2009. Mr. Ball explained that the difference was - 6.93 percent for FY 2009 and an additional - 2.13 percent from FY 2009 to FY 2010. Mr. Ball also pointed out that there was - 14.84 percent from FY 2009 to FY 2010 for Mineral Lease.

Sen. Jones inquired about the number of Full-Time Equivalents (FTEs) that will be impacted by the new revised revenue estimates and the \$354 million September Special Session budget cuts. Mr. Ball stated that he did not know what those numbers will be but the cuts and the impact of those cuts will be debated in the appropriations subcommittees in the upcoming General Session.

Sen. Jones asked what percentage of the State's budget represents FTEs. Mr. Ball responded that generally 80 percent of agencies' operating budgets are FTEs. This number does not include capital projects. Mr. Ball stated that he would provide a combined figure to reflect the total budget later on in the meeting.

Co-chair Hillyard offered some clarifying remarks regarding the new revised estimates.

A vote was taken on the motion. The motion passed unanimously.

4. Adopt Appropriations Limit Estimates

Jonathan Ball, LFA, reviewed the green sheet under Tab 4, "FY 2009 - FY 2010 Appropriations Limit Estimate - December 2008." He explained that currently there is about a \$500 million difference between the Appropriations Limit Estimate and the Base-Budget Non-Exempt Appropriations in FY 2009 and a \$484 million difference in FY 2010.

MOTION: Co-chair Hillyard moved to adopt the appropriations limit estimates as indicated on the green sheet titled, "FY 2009 - FY 2010 Appropriations Limit Estimate - December 2008" and dated today, December 16, 2008. The motion passed unanimously.

5. Subcommittee Allocations and EAC Set-Asides

Jonathan Ball, LFA, reviewed the cherry sheet under Tab 5, "Subcommittee Allocations (General and Education Funds). The proposed subcommittee allocations for FY 2009 are 7.5 percent below what was appropriated in the September Special Session. This generates \$402 million in savings. The proposal for FY 2010 will be a base budget that is 15 percent or \$750 million below the ongoing appropriations from

the September Special Session, making the total FY 2010 base budget an estimated \$4.3 billion. Mr. Ball noted that the FY 2007 budget was \$4.4 billion.

Pres. Valentine asked if the 7.5 percent reduction for FY 2009 and the 15 percent reduction for FY 2010 were reductions below the Special Session FY 2009 base budget. Mr. Ball confirmed that they were. Mr. Ball also verified that the appropriations subcommittees would be able to establish spending prioritizations within those targeted numbers.

Rep. King asked for a confirmation that the 7.5 percent cut will be on the Special Session FY 2009 base budget and not the base budget appropriated in the 2009 General Session. Mr. Ball confirmed that this was the case.

Rep. Litvack asked if the committee were to approve the 15 percent across the board cuts in FY 2010, would this action take other funding offsets off the table, such as the Rainy Day Fund, bonding, growth in student population, or some of the Governor's budget recommendations.

Co-Chair Bigelow stated that nothing is off the table and that this is not the final budget. Executive Appropriations is looking to pass a base budget that can be added to rather than taken away from. He pointed out that there may be some departments and agencies that will question cuts to critical programs, and there will be legislators who are willing to cover those cuts by other means, such as the Rainy Day Funds. Co-Chair Bigelow stated that passing a base budget at 85% does not prevent any future action. Options are still on the table and discussions will be on-going. It will be incumbent on the appropriations subcommittees to make recommendations as to what should be funded.

Co-Chair Hillyard spoke in favor of a more conservative approach to the base budget with options to add back where necessary. He mentioned a number of factors that will impact the base budget, such as the growth in public education, growth in Medicaid, and increases in healthcare costs.

Rep. Litvack asked if any rule change had been considered that would allow more time for subcommittees to examine the impacts of these cuts. Co-Chair Hillyard responded that it is important to send a clear signal to the subcommittees that there are serious concerns about the lack of revenue.

Co-Chair Bigelow stated that Executive Appropriations Committee had just adopted revenue estimates that are low and that it is not possible to allocate funds that we do not have.

Sen. Jones wanted to know what percentage of agency and department employees are full-time.

Mr. Ball stated that the 2009 Compendium of Budget Information (COBI) is posted on the legislative homepage and provides program level detail on full time equivalent budgets for the appropriated years. In response to Sen. Jones' previous FTE percentage request, Mr. Ball stated that about 32% of the state's total budget excluding public education is for employees - salaries, benefits, overtime, and training. Mr. Ball also stated that he does not have detailed information on the personnel services piece for public education. The State Board of Education spends about \$45 million on personnel but he did know how much the districts are spending. Sen. Jones stated that she would like this information.

Speaker Curtis asked if the Budgetary Procedures Act requires the Governor to not spend more than the adopted revenue estimates.

Mr. Ball stated that under the Budgetary Procedures Act, the Governor has the authority to reduce allocations to departments when revenues are less than appropriations.

Rep. Moss asked for a clarification on how the approved subcommittee allocations would be handled within each subcommittee.

Rep. Bigelow explained that each appropriations subcommittee will meet on two separate days prior to the General Session to discuss and make specific recommendations on how to fund programs at 85 percent of the base budget level. Subsequent to those meetings and prior to General Session, the Executive Appropriations Committee will meet to authorize a bill that reflects those recommendations. Once General Session begins, the merits of specific budget items will be debated on the floor of both houses.

Pres. Valentine asked what effect the motion to adopt the new revenue estimates has on the present year's expenditures by the Executive Branch.

Mr. Ball enlisted the assistance of Erik Weeks, Associate General Counsel, LRGC.

Mr. Ball explained that the motion creates a statutorily defined budget deficit which means that if the Legislature were in a Special Session, it could appropriate money out of the Rainy Day Fund. It does not create an operating deficit because it is an estimate of collections. An operating deficit is actual collections vs. actual spending. The Governor has the obligation and the authority to reduce allotments if the state is in an operating deficit. As far as operating budgets go, the Governor has directed agencies to reduce their expenditures by 1.5 percent which is more than the 4 percent budget reduction authorized in the September Special Session.

Pres. Valentine asked Mr. Ball to confirm that the Governor has authorized a 1.5 percent reduction more than the 4 percent reduction authorized in Special Session and not a 7.5 percent reduction. Mr. Ball confirmed that this was the case.

Sen. Goodfellow asked what percentage reduction of the base budget did the Governor use to prepare his budget for FY 2010. John Nixon, Executive Director, Governor's Office of Planning and Budget, responded that the Governor's Office is recommending a 7 percent on-going, across the board, base budget reduction, with critical areas being backfilled with one-time monies. Mr. Nixon noted that the Governor's Office and LFA are working from the same set of numbers, but looked at transportation differently, used bonding in 2009, and took a more gradual approach to agency base budget cuts.

Rep. Lockhart asked if the Governor's Budget recommendations will require any statutory changes. Mr. Nixon stated that there will be some statutory changes but the budget document does not reflect those changes.

Rep. Lockhart asked for one example where a budget reduction would require a statutory change, in particular, an 8.3 percent reduction in transportation. Mr. Nixon stated that the Governor's Office recommended that \$250 million on-going be pulled out of transportation and replaced with an increase in motor vehicle registration fees. Mr. Nixon confirmed that this action would require a legislative statutory change even though it was not mentioned in the Governor's budget.

Co-Chair Bigelow recognized Co-Chair Hillyard for a motion.

MOTION: Co-Chair Hillyard moved to allocate to appropriations subcommittees for FY 2009 and FY 2010 the General Fund and Education Fund totals listed on the cherry sheet titled, "Subcommittee Allocations (General and Education Funds)" and dated today, December 16, 2008. The motion passed unanimously.

6. Base Budget Bills

Jonathan Ball, LFA, explained that the two base budget bills, "State Agency and Higher Education Base Budget Appropriations" and "Minimum School Program Base Budget Amendments," include last year's ongoing appropriation and changes described on the pink sheet, under TAB 6, titled "What is in the Base Budget Bills?" and dated, December 16, 2008.

MOTION: Co-Chair Hillyard moved to authorize legislative staff to prepare and number "State Agency and Higher Education Base Budget Appropriations" and "Minimum School Program Base Budget Amendments" as Executive Appropriations Committee bills to be introduced on the first day of the 2009 General Session. Pursuant to legislative rule JR3-2-402, staff shall include in these bills the base budgets and changes described on the pink sheet titled "What is in the Base Budget Bills?" and dated today, December 16, 2008. In consultation with the Co-Chairs of the Executive Appropriations Committee, the Legislative Fiscal Analyst may make any technical changes necessary. The motion passed unanimously.

7. Appropriations Subcommittee Meetings

Co-Chair Hillyard proposed that the Appropriations Subcommittees meet on Monday, January 12, 2008 and Tuesday, January 20, 2008 from 9:00 a.m. until 3:00 p.m. or thereabouts. The purpose of these meetings is to orient new legislators and legislators with new committee assignments, review the proposed base budget reductions, and make recommendations. On Friday, January 23, 2008, the Executive Appropriations Committee would then meet to approve an appropriations bill that would be introduced on Monday, January 27, 2008, first day of the 2009 General Session.

Co-Chair Hillyard indicated that new legislators would have to be sworn in before the January 12 meetings. This action would not supplant the formal swearing in on the first day of session.

Rep. Litvack requested that an alternative date, January 22, be considered in light of the fact that some legislators will be attending Inauguration ceremonies in Washington D.C. on January 20.

Co-Chair Hillyard stated that he would not be available on January 22. He also pointed out that the one day turn around would not give Executive Appropriations enough time to finalize an appropriations bill.

Rep. Litvack stated that some legislators would miss the opportunity to vote on the base budget recommendations if the meetings were held on January 20. He questioned why subcommittees are being asked to make decisions on the 15 percent reductions prior to Session when the Legislature has ten days to pass the base budget bill after it has been introduced the first day of session. He felt that the subcommittees should be given the opportunity to delve into their respective budgets more thoroughly.

Co-Chair Hillyard responded that this process is going to require a lot of work and subcommittees will continue to work on the budget once session has begun. Co-Chair Hillyard stated that delaying these budget decisions could have significant fiscal impact on state government.

Rep. Litvack voiced concern that the appropriations subcommittees will not be able to hear from members of the public that are directly impacted by the budget cuts.

Sen. Jones shared similar concerns. She asked if voting would take place on January 20.

Co-Chair Bigelow stated that some decisions will have to be made in order to prepare a bill.

Sen. Jones asked about Co-Chair Hillyard's comment that subcommittee discussions could continue beyond the January 20 meetings. Co-Chair Hillyard responded that there is a real challenge in getting enough information needed to make these decisions.

Sen. Jones expressed concern that the subcommittees will not be able to hear feed-back from the stakeholders. She also stated that the new legislators may not be up to speed on the issues and will be asked to vote on budget items that will critically affect many individuals.

Rep. Clark spoke in favor of holding a Special Session prior to General Session to help alleviate some of the financial pressures on the state budget.

Sen. Killpack stated that the Legislature has the opportunity to act responsibly. Utah's financial situation is manageable compared to other states.

Sen. Bramble commented further that other states are not just looking to bond to pay retirement obligations but are asking the federal government to purchase bonds to meet their ongoing operational expenses. Sen. Bramble also spoke in favor of holding a Special Session prior to General Session.

Co-Chair Bigelow stated that as a legislator it will be important to do the homework needed to make informed decisions. He encouraged advocates to come forward well in advance of the upcoming meetings and talk with legislators about their concerns. He noted that a lot of information is available on-line and that staff will be available to answer questions.

Co-Chair Hillyard stated that he would take Rep. Litvack's request to change the meeting date of January 20, 2008 into consideration and would get back to him.

Rep. Litvack suggested January 16 as an alternative date.

Co-Chair Bigelow was interested in finding out how many members of the newly configured Executive Appropriations Committee will be in attendance at the January 23 meeting.

Pres. Valentine noted that in the past, the Legislature would have been in session on Inauguration Day but he understands that some legislators may want to attend these ceremonies.

8. Report on Recodification of Budgetary Procedures Act

Mr. Ball informed the committee that Eric Weeks had prepared a discussion draft of the Budgetary Procedures Act bill found under TAB 8. A subcommittee comprised of the EAC Co-Chairs, Vice Chairs, and Sen. Goodfellow and Rep. Carol Spackman Moss met earlier in the week and approved the recommended changes to the Budgetary Procedures Act. He explained that these changes will be presented to interested agencies and departments for review and comment, and then submitted to the appropriations subcommittees for approval on any additional changes. The final bill will go before a standing committee during General Session.

Erik Weeks, Deputy General Counsel, LRGC, gave an overview of the working draft bill. The bill will be split into two bills: (1) Recodification, and (2) Modifications to the Act. The Recodification bill has no substantive changes other than clarification of current language. It reorganizes and rewrites several sections for consistency and clarity. This bill will be run early in session with an immediate effective date. Modifications to the Act include substantive changes, and will be run after passage, (and possibly enactment) of the Recodification bill.

Mr. Weeks explained the list of substantive change references in the current draft bill.

Co-Chair Bigelow directed Mr. Weeks to have those bills prepared for the General Session.

9. Other Business

Co-Chair Bigelow called attention to the following written reports under TAB 9:

- a. Appropriations Subcommittee Interim Reports
- b. Governor's Office of Economic Development (GOED) report on progress to modify agreements reached before May 5, 2008 to provide incentives in the form of tax credits rather than partial rebates (per UCA 63M-1-2408)
- c. Other Studies Assigned by EAC to Subcommittees
 - i. Report on WPU funding and the impact of moving categorical programs above the line.
 - ii. Grants Review for Arts, Museums, History and Libraries

Co-Chair Bigelow inquired about a written report from the Governor's Office on turnover savings not included in the materials. Mr. Nixon, GOP, indicated that the report would be available in the next day or two. Co-Chair Bigelow directed Mr. Ball to send a copy of the report to the committee members.

Co-Chair Bigelow expressed his appreciation to the current members of the Executive Appropriations Committee and thanked them for their service.

Co-Chair Bigelow recognized Co-Chair Hillyard for a motion.

MOTION: Co-Chair Hillyard moved to adjourn. The motion passed unanimously.

Co-Chair Bigelow adjourned the meeting at 3:00 p.m.